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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY _____

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13 Ryan Agsalud

14 UNITED STATES DISTRICT COURT
15 CENTRAL DISTRICT OF CALIFORNIA
16 WESTERN DIVISION

17 Ryan Agsalud,

18 Plaintiff,

19 vs.

20 Credit One Bank; and DOES 1-10,
21 inclusive,

22 Defendants.

Case No.:

CV 13-07205-GAF
(RZ)

COMPLAINT FOR DAMAGES
1.VIOLATION OF THE
TELEPHONE CONSUMER
PROTECTION ACT, 47 U.S.C. § 227,
ET. SEQ.
2.VIOLATION OF FAIR DEBT
COLLECTION PRATICES ACT,
CAL.CIV.CODE § 1788 ET. SEQ.

JURY TRIAL DEMANDED

COMPLAINT FOR DAMAGES

1 For this Complaint, the Plaintiff, Ryan Agsalud, by undersigned counsel, states
2 as follows:
3

4 **JURISDICTION**

5 1. This action arises out of Defendants' repeated violations of the
6 Telephone Consumer Protection Act, 47 U.S.C. § 227, *et. seq.* (the "TCPA").
7

8 2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.

9 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that
10 Defendants transact business here, Plaintiff resides in this judicial district, and a
11 substantial portion of the acts giving rise to this action occurred here.
12

13 **PARTIES**

14 4. The Plaintiff, Ryan Agsalud (hereafter "Plaintiff"), is an adult individual
15 residing in Los Angeles, California, and is a "person" as defined by 47 U.S.C. §
16 153(10).
17

18 5. Defendant, Credit One Bank ("Credit One" or "Defendant"), is a Nevada
19 business entity with an address of 585 Pilot Road, Las Vegas, Nevada 89119, and is a
20 "person" as defined by 47 U.S.C. § 153(10).
21

22 6. Does 1-10 (the "Agents") are individual employees and/or agents
23 employed by Defendant and whose identities are currently unknown to the Plaintiff.
24 One or more of the Agents may be joined as parties once their identities are disclosed
25 through discovery.
26
27
28

1 11. Credit One's telephone systems have all the earmarks of a Predictive
2 Dialer. Often times when Plaintiff answered the phone, Defendants' telephone system
3 did not connect the call to a live representative and the phone system would terminate
4 the call.
5

6 12. When Plaintiff answered the phone, he was met with the "dead air" as
7 described by the FCC, supra. When Plaintiff answered the calls from Credit One, there
8 was a period of silence before Defendants' telephone system would connect him to the
9 next available representative.
10

11 13. Plaintiff was required to say "hello" several times before Defendants'
12 phone system would connect Plaintiff to the next available representative.
13

14 14. Defendants' Predictive Dialers have the capacity to store or produce
15 telephone numbers to be called, using a random or sequential number generator.
16

17 15. Credit One did not have consent to place calls to Plaintiff on his cellular
18 telephones.
19

20 16. During several live conversations, Plaintiff directed Credit One to
21 remove his cellular telephone numbers from the account and to cease calling him at
22 his cellular telephone numbers.
23

24 17. However, despite having been instructed by Plaintiff not to call,
25 Defendant thereafter continued to place calls to his cellular telephones.
26
27
28

1 24. As a result of each call made in knowing and/or willful violation of the
2 TCPA, Plaintiff is entitled to an award of treble damages in an amount up to
3 \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).
4

5
6 **COUNT II**
7 **VIOLATION OF THE ROSENTHAL FAIR DEBT COLLECTION**
8 **PRACTICES ACT, Cal. Civ. Code § 1788 et seq.**

9 25. The Plaintiff incorporates by reference all of the above paragraphs of this
10 Complaint as though fully stated herein.

11 26. The Rosenthal Fair Debt Collection Practices Act, California Civil Code
12 section 1788 *et seq.* (“Rosenthal Act”) prohibits unfair and deceptive acts and
13 practices in the collection of consumer debts.
14

15 27. Credit One Bank, in the regular course of business, engages in debt
16 collection and is a “debt collector” as defined by Cal. Civ. Code § 1788.2(c).
17

18 28. The Defendants caused a telephone to ring repeatedly and engaged the
19 Plaintiff in continuous conversations with an intent to annoy the Plaintiff, in violation
20 of Cal. Civ. Code § 1788.11(d).
21

22 29. The Defendants communicated with the Plaintiff with such frequency as
23 to be considered harassment, in violation of Cal. Civ. Code § 1788.11(e).
24

25 30. The Defendants failed to comply with the provisions of 15 U.S.C. §
26 1692, et seq., in violation of Cal. Civ. Code § 1788.13(e).
27
28

1 31. The Defendants did not comply with the provisions of Title 15, Section
2 1692 of the United States Code, in violation of Cal. Civ. Code § 1788.17.

3
4 32. The Plaintiff is entitled to damages as a result of the Defendants'
5 violations.

6
7 **PRAYER FOR RELIEF**

8 WHEREFORE, the Plaintiff prays that judgment be entered against the
9 Defendants:

- 10
11 A. Statutory damages of \$500.00 for each violation determined to be
12 negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
13
14 B. Treble damages for each violation determined to be willful and/or
15 knowing pursuant to 47 U.S.C. § 227(b)(3)(C);
16
17 C. Actual damages pursuant to Cal. Civ. Code § 1788.30(a);
18
19 D. Statutory damages of \$1,000.00 for knowingly and willfully committing
20 violations pursuant to Cal. Civ. Code § 1788.30(b);
21
22 E. Such other and further relief as may be just and proper.

23 **TRIAL BY JURY DEMANDED ON ALL COUNTS**
24
25
26
27
28

1 DATED: September 25, 2013

TAMMY HUSSIN

2
3 

4 By: _____
5 Tammy Hussin, Esq.
6 Lemberg & Associates, LLC
7 Attorney for Plaintiff, Ryan Agsalud
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UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

Ryan Agsalud

PLAINTIFF(S)

v.

Credit One Bank; and DOES 1-10, inclusive,

DEFENDANT(S).

CASE NUMBER

CV 13-07205

GAF/K2

SUMMONS

TO: DEFENDANT(S): Credit One Bank

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Tammy Hussin, Esq., Lemberg & Associates, LLC, whose address is 6404 Merlin Drive, Carlsbad, CA 92011. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: SEP 30 2013

By: Manilev
 Deputy Clerk

(Seal of the Court)



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge Gary A. Feess and the assigned
Magistrate Judge is Ralph Zarefsky.

The case number on all documents filed with the Court should read as follows:

2:13-CV-7205-GAF (RZx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

September 30, 2013

Date

By MDAVIS

Deputy Clerk

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:



Western Division
312 N. Spring Street, G-8
Los Angeles, CA 90012



Southern Division
411 West Fourth St., Ste 1053
Santa Ana, CA 92701



Eastern Division
3470 Twelfth Street, Room 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.